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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,486	02/05/2004	Brian M. Ott	5-897	4986
707	7590	06/22/2005		
DAVID A. BURGE CO, L.P.A. 2901 SOUTH PARK BOULEVARD CLEVELAND, OH 44120-1842			EXAMINER LUGO, CARLOS	
			ART UNIT 3676	PAPER NUMBER

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/772,486

Applicant(s)

OTT ET AL.

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35-47 is/are allowed.
- 6) ☒ Claim(s) 1-3, 14, 15, 17-19 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 4-13, 16, 20, 21 and 25-34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/12/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because:
  - Figure 2, change "305" pointing the link at the right side to -304-.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:
  - Reference number 303 (page 17 line 34) is not illustrated in the current set of drawings.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified

and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1 and 3 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,996,591 to Hayward in view of US Pat No 4,068,871 to Mercer.

Regarding claim 1, Hayward discloses a latching system comprising first and second latch assemblies (at each side in Figure 2); a first operating mechanism (20) that includes an enclosure (21) that houses a first crank arm (32) and components of a signal responsive relay mechanism (Figure 5); and first and second elongated links (37) connecting the crank arm with the first and second latch assemblies.

However, Hayward fails to disclose that the first and second latch assemblies interact with first and second striker formations. Hayward discloses that the first and second latch assemblies are sliding bolts received in keeper formations.

Mercer teaches that it is well known in the art of operating more than one latch bolts to have first and second latch assemblies (56) that engages first and second striker formations (40).

It would have been obvious to one having ordinary skill in the art of operating more than one latch at the time the invention was made to incorporate into the

latching system presented by Hayward with a latch assembly that engages and interacts with a striker formation, as taught by Mercer, in order to secure the closure member.

As to claim 3, Hayward discloses that the enclosure of the control unit comprises a cover (24) and a base.

5. **Claims 2,14,15,17, and 22-24 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,996,591 to Hayward in view of US Pat No 4,068,871 to Mercer as applied to claim 1 above (for claim 2), and further in view of US Pat No 5,394,718 to Hötzl.

Regarding claims 2,14,22 and 23, Hayward, as modified by Mercer, fails to disclose that the enclosure has two openings so that the first and second elongated links extends therein. Hayward discloses that the enclosure includes at least two openings, however, Hayward fails to disclose that the first and second elongated links extends through the openings. Hayward discloses that only the latches extend through the openings.

Hötzl teaches that it is well known in the art of operating more than one latch to have an operating mechanism that includes an enclosure that includes at least two openings so that first and second elongated links (7 and 14) can pass through.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the elongated links extending through the openings of the enclosure, as taught by Hötzl, into the device as described by Hayward, as modified by Mercer, since it would be considered as a design consideration within the

art since it does not affect the mechanism of the latching system or in order to provide a smaller and compact enclosure.

As to claims 15 and 24, Hayward discloses that the enclosure of the control unit comprises a cover (24) and a base.

As to claim 17, Hayward discloses that the signal responsive relay mechanism includes an electrically operated relay and a signal responsive switch mechanism for supplying electricity to the electrically operated re-lay to operate the relay to move the armature of the relay to pivot the first crank arm from the non-operated position to the operated position in response to receipt by the signal responsive relay mechanism of the signal (Figure 5).

6. **Claims 18 and 19 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,996,591 to Hayward in view of US Pat No 4,068,871 to Mercer and in view of US Pat No 5,394,718 to Hötzl as applied to claim 15 above, and further in view of US Pat No D 486,258 to Cannon et al (Cannon) and in view of US Pat No 2,756,990 to Reamey.

Hayward, as modified by Mercer and Hötzl, fails to disclose that the enclosure is capable of being provided with an electric light and that is made of plastic.

Cannon teaches that it is well known in the art to have an enclosure that includes an electric light (Figure 8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the enclosure of Hayward, as modified by Mercer and

Hötzl, with an electric light, as taught by Cannon, in order to illuminate the interior of the enclosure.

Reamey teaches that it is well known in the art to make a housing (32) of any plastic material (Col. 6 Lines 67-70).

It would be obvious to one having ordinary skill in the art at the time the invention was made to make the enclosure presented by Hayward, as modified by Mercer and Hötzl, of plastic material, as taught by Reamey, since the selection of a known material based upon its suitability for the intended use is a design consideration within the level of skill of one skilled in the art.

#### ***Allowable Subject Matter***

7. **Claims 35-47 are allowed.**
8. **Claims 4,8,16,20,25 and 29 are objected to** as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 5-7,9-13,21,26-28 and 30-34 would also be allowed because the claims depend from claims 4,8,20,25 and 29 respectively.

#### **Reasons For Allowance**

9. The following is an examiner's statement of reasons for allowance:

Claim 35 is allowable over the prior art of record and claims 4,8,16,20,25 and 29 presents allowable subject matter over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the first crank arm is pivotally connected to the base of the

enclosure (claims 4,16 and 25); and that the latching system further comprises a second operating mechanism that respond to manual operation that moves the first and second latch assemblies by means of first and second actuator links (claims 8,20,29 and 35).

With respect to the fact that the first crank arm is pivotally connected to the base of the enclosure, Hayward discloses that the first crank arm pivot. However, the arm pivots with respect to the shaft (32) of the motor; not pivotally connected to the base of the enclosure.

As to the fact that the latching system further comprises a second operating mechanism that respond to manual operation that moves the first and second latch assemblies by means of first and second actuator links, Knapp (US 3,396,999) teaches that it is well known in the art to have manual and electrical actuator to move first and second latch assemblies. However, Knapp fails to disclose that the manual operating mechanism includes a different set of links that operate the latch assemblies. Knapp teaches that both operating mechanism use the same set of links to move the latch assemblies.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."



**Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C-L-

Carlos Lugo  
AU 3676

June 16, 2005.



**BRIAN E. GLESSNER  
PRIMARY EXAMINER**